



General Assembly

February Session, 2012

***Raised Bill No. 5320***

LCO No. 1025

\*01025\_\_\_\_\_PD\_\*

Referred to Committee on Planning and Development

Introduced by:  
(PD)

***AN ACT CONCERNING BONDS AND OTHER SURETY FOR  
APPROVED SITE PLANS AND SUBDIVISIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 8-3 of the 2012 supplement to the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2012*):

4 (g) (1) The zoning regulations may require that a site plan be filed  
5 with the commission or other municipal agency or official to aid in  
6 determining the conformity of a proposed building, use or structure  
7 with specific provisions of such regulations. If a site plan application  
8 involves an activity regulated pursuant to sections 22a-36 to 22a-45,  
9 inclusive, the applicant shall submit an application for a permit to the  
10 agency responsible for administration of the inland wetlands  
11 regulations not later than the day such application is filed with the  
12 zoning commission. The commission shall, within the period of time  
13 established in section 8-7d, accept the filing of and shall process,  
14 pursuant to section 8-7d, any site plan application involving land  
15 regulated as an inland wetland or watercourse under chapter 440. The  
16 decision of the zoning commission shall not be rendered on the site

17 plan application until the inland wetlands agency has submitted a  
18 report with its final decision. In making its decision, the commission  
19 shall give due consideration to the report of the inland wetlands  
20 agency and if the commission establishes terms and conditions for  
21 approval that are not consistent with the final decision of the inland  
22 wetlands agency, the commission shall state on the record the reason  
23 for such terms and conditions. A site plan may be modified or denied  
24 only if it fails to comply with requirements already set forth in the  
25 zoning or inland wetlands regulations. Approval of a site plan shall be  
26 presumed unless a decision to deny or modify it is rendered within the  
27 period specified in section 8-7d. A certificate of approval of any plan  
28 for which the period for approval has expired and on which no action  
29 has been taken shall be sent to the applicant within fifteen days of the  
30 date on which the period for approval has expired. A decision to deny  
31 or modify a site plan shall set forth the reasons for such denial or  
32 modification. A copy of any decision shall be sent by certified mail to  
33 the person who submitted such plan within fifteen days after such  
34 decision is rendered. The zoning commission may, as a condition of  
35 approval of [any] a site plan or modified site plan, require a [bond in  
36 an amount not to exceed the cost to perform any modifications  
37 required by such modified site plan plus an additional amount of up to  
38 ten per cent of the amount of the bond and with surety and conditions  
39 satisfactory to it, securing that any modifications of such site plan are  
40 made or may grant an extension of the time to complete work in  
41 connection with such modified site plan] financial guarantee in the  
42 form of a bond, a bond with surety or similar instrument to ensure (A)  
43 the timely and adequate completion of any site improvements that will  
44 be conveyed to or controlled by the municipality, and (B) the  
45 implementation of any erosion and sediment controls required during  
46 construction activities. The amount of such financial guarantee shall be  
47 calculated so as not to exceed the anticipated actual costs for the  
48 completion of such site improvements or the implementation of such  
49 erosion and sediment controls plus a contingency amount not to  
50 exceed ten per cent of such costs. At any time, the commission may

51 grant an extension of time to complete any site improvements that will  
 52 be conveyed to or controlled by the municipality. The commission  
 53 shall publish notice of the approval or denial of site plans in a  
 54 newspaper having a general circulation in the municipality. In any  
 55 case in which such notice is not published within the fifteen-day  
 56 period after a decision has been rendered, the person who submitted  
 57 such plan may provide for the publication of such notice within ten  
 58 days thereafter. The provisions of this subsection shall apply to all  
 59 zoning commissions or other final zoning authority of each  
 60 municipality whether or not such municipality has adopted the  
 61 provisions of this chapter or the charter of such municipality or special  
 62 act establishing zoning in the municipality contains similar provisions.

63 (2) To satisfy any [bond or surety] financial guarantee requirement,  
 64 the commission [shall] may accept surety bonds [,] and shall accept  
 65 cash bonds, passbook or statement savings accounts and other [surety]  
 66 financial guarantees other than surety bonds including, but not limited  
 67 to, letters of credit, provided such [bond or surety] other financial  
 68 guarantee is in a form acceptable to the commission and the financial  
 69 institution or other entity issuing any letter of credit is acceptable to  
 70 the commission. Such [bond or surety] financial guarantee may, at the  
 71 discretion of the person posting such [bond or surety] financial  
 72 guarantee, be posted at any time before all [modifications of the site  
 73 plan] approved site improvements are [complete] completed, except  
 74 that the commission may require a [bond or surety] financial guarantee  
 75 for erosion [control] and sediment controls prior to the commencement  
 76 of any such [modifications] site improvements. No certificate of  
 77 occupancy shall be issued before a required [bond or surety] financial  
 78 guarantee is posted or the approved site improvements are completed  
 79 to the reasonable satisfaction of the commission or its agent. For any  
 80 site plan that is approved for development in phases, the [surety]  
 81 financial guarantee provisions of this section shall apply as if each  
 82 phase was approved as a separate site plan. Notwithstanding the  
 83 provisions of any special act, municipal charter or ordinance, no  
 84 commission shall require a [bond or other surety to securitize]

85 financial guarantee or payment to finance the maintenance of roads,  
86 streets or other improvements associated with such site plan for  
87 [maintenance occurring] more than one year after the date on which  
88 such improvements have been completed to the reasonable satisfaction  
89 of the commission or its agent or accepted by the municipality.

90 (3) If the person posting a [bond or surety] financial guarantee  
91 under this section requests a release of all or a portion of such [bond or  
92 surety] financial guarantee, the commission or its agent shall, not later  
93 than sixty-five days after receiving such request, (A) release or  
94 authorize the release of any such [bond or surety] financial guarantee  
95 or portion thereof, provided the commission or its agent is reasonably  
96 satisfied that the [modifications] site improvements for which such  
97 [bond or surety] financial guarantee or portion thereof was posted  
98 have been completed, or (B) provide the person posting such [bond or  
99 surety] financial guarantee with a written explanation as to the  
100 additional [modifications] site improvements that must be completed  
101 before such [bond or surety] financial guarantee or portion thereof  
102 may be released.

103 Sec. 2. Section 8-25 of the 2012 supplement to the general statutes is  
104 repealed and the following is substituted in lieu thereof (*Effective*  
105 *October 1, 2012*):

106 (a) No subdivision of land shall be made until a plan for such  
107 subdivision has been approved by the commission. Any person, firm  
108 or corporation making any subdivision of land without the approval of  
109 the commission shall be fined not more than five hundred dollars for  
110 each lot sold or offered for sale or so subdivided. Any plan for  
111 subdivision shall, upon approval, or when taken as approved by  
112 reason of the failure of the commission to act, be filed or recorded by  
113 the applicant in the office of the town clerk not later than ninety days  
114 after the expiration of the appeal period under section 8-8, or in the  
115 case of an appeal, not later than ninety days after the termination of  
116 such appeal by dismissal, withdrawal or judgment in favor of the

117 applicant but, if it is a plan for subdivision wholly or partially within a  
118 district, it shall be filed in the offices of both the district clerk and the  
119 town clerk, and any plan not so filed or recorded within the prescribed  
120 time shall become null and void, except that the commission may  
121 extend the time for such filing for two additional periods of ninety  
122 days and the plan shall remain valid until the expiration of such  
123 extended time. All such plans shall be delivered to the applicant for  
124 filing or recording not more than thirty days after the time for taking  
125 an appeal from the action of the commission has elapsed or not more  
126 than thirty days after the date that plans modified in accordance with  
127 the commission's approval and that comply with section 7-31 are  
128 delivered to the commission, whichever is later, and in the event of an  
129 appeal, not more than thirty days after the termination of such appeal  
130 by dismissal, withdrawal or judgment in favor of the applicant or not  
131 more than thirty days after the date that plans modified in accordance  
132 with the commission's approval and that comply with section 7-31 are  
133 delivered to the commission, whichever is later. No such plan shall be  
134 recorded or filed by the town clerk or district clerk or other officer  
135 authorized to record or file plans until its approval has been endorsed  
136 thereon by the chairman or secretary of the commission, and the filing  
137 or recording of a subdivision plan without such approval shall be void.  
138 Before exercising the powers granted in this section, the commission  
139 shall adopt regulations covering the subdivision of land. No such  
140 regulations shall become effective until after a public hearing held in  
141 accordance with the provisions of section 8-7d. Such regulations shall  
142 provide that the land to be subdivided shall be of such character that it  
143 can be used for building purposes without danger to health or the  
144 public safety, that proper provision shall be made for water, sewerage  
145 and drainage, including the upgrading of any downstream ditch,  
146 culvert or other drainage structure which, through the introduction of  
147 additional drainage due to such subdivision, becomes undersized and  
148 creates the potential for flooding on a state highway, and, in areas  
149 contiguous to brooks, rivers or other bodies of water subject to  
150 flooding, including tidal flooding, that proper provision shall be made

151 for protective flood control measures and that the proposed streets are  
152 in harmony with existing or proposed principal thoroughfares shown  
153 in the plan of conservation and development as described in section  
154 8-23, especially in regard to safe intersections with such thoroughfares,  
155 and so arranged and of such width, as to provide an adequate and  
156 convenient system for present and prospective traffic needs. Such  
157 regulations shall also provide that the commission may require the  
158 provision of open spaces, parks and playgrounds when, and in places,  
159 deemed proper by the planning commission, which open spaces, parks  
160 and playgrounds shall be shown on the subdivision plan. Such  
161 regulations may, with the approval of the commission, authorize the  
162 applicant to pay a fee to the municipality or pay a fee to the  
163 municipality and transfer land to the municipality in lieu of any  
164 requirement to provide open spaces. Such payment or combination of  
165 payment and the fair market value of land transferred shall be equal to  
166 not more than ten per cent of the fair market value of the land to be  
167 subdivided prior to the approval of the subdivision. The fair market  
168 value shall be determined by an appraiser jointly selected by the  
169 commission and the applicant. A fraction of such payment the  
170 numerator of which is one and the denominator of which is the  
171 number of approved parcels in the subdivision shall be made at the  
172 time of the sale of each approved parcel of land in the subdivision and  
173 placed in a fund in accordance with the provisions of section 8-25b.  
174 The open space requirements of this section shall not apply if the  
175 transfer of all land in a subdivision of less than five parcels is to a  
176 parent, child, brother, sister, grandparent, grandchild, aunt, uncle or  
177 first cousin for no consideration, or if the subdivision is to contain  
178 affordable housing, as defined in section 8-39a, equal to twenty per  
179 cent or more of the total housing to be constructed in such subdivision.  
180 Such regulations, on and after July 1, 1985, shall provide that proper  
181 provision be made for soil erosion and sediment control pursuant to  
182 section 22a-329. Such regulations shall not impose conditions and  
183 requirements on manufactured homes having as their narrowest  
184 dimension twenty-two feet or more and built in accordance with

185 federal manufactured home construction and safety standards or on  
186 lots containing such manufactured homes which are substantially  
187 different from conditions and requirements imposed on single-family  
188 dwellings and lots containing single-family dwellings. Such  
189 regulations shall not impose conditions and requirements on  
190 developments to be occupied by manufactured homes having as their  
191 narrowest dimension twenty-two feet or more and built in accordance  
192 with federal manufactured home construction and safety standards  
193 which are substantially different from conditions and requirements  
194 imposed on multifamily dwellings, lots containing multifamily  
195 dwellings, cluster developments or planned unit developments. The  
196 commission may also prescribe the extent to which and the manner in  
197 which streets shall be graded and improved and public utilities and  
198 services provided and, in lieu of the completion of such work and  
199 installations previous to the final approval of a plan, the commission  
200 may accept a [bond] financial guarantee of such work and installations  
201 in an amount and with surety and conditions satisfactory to it securing  
202 to the municipality the actual construction, maintenance and  
203 installation of such public improvements and utilities within a period  
204 specified in the [bond] financial guarantee. Such regulations may  
205 provide, in lieu of the completion of the work and installations above  
206 referred to, previous to the final approval of a plan, for an assessment  
207 or other method whereby the municipality is put in an assured  
208 position to do such work and make such installations at the expense of  
209 the owners of the property within the subdivision. Such regulations  
210 may provide that in lieu of either the completion of the work or the  
211 furnishing of a [bond or other surety] financial guarantee as provided  
212 in this section, the commission may authorize the filing of a plan with  
213 a conditional approval endorsed thereon. Such approval shall be  
214 conditioned on (1) the actual construction, maintenance and  
215 installation of any improvements or utilities prescribed by the  
216 commission, or (2) the provision of a [bond or other surety] financial  
217 guarantee as provided in this section. Upon the occurrence of either of  
218 such events, the commission shall cause a final approval to be

219 endorsed thereon in the manner provided by this section. Any such  
220 conditional approval shall lapse five years from the date it is granted,  
221 provided the applicant may apply for and the commission may, in its  
222 discretion, grant a renewal of such conditional approval for an  
223 additional period of five years at the end of any five-year period,  
224 except that the commission may, by regulation, provide for a shorter  
225 period of conditional approval or renewal of such approval. Any  
226 person who enters into a contract for the purchase of any lot  
227 subdivided pursuant to a conditional approval may rescind such  
228 contract by delivering a written notice of rescission to the seller not  
229 later than three days after receipt of written notice of final approval if  
230 such final approval has additional amendments or any conditions that  
231 were not included in the conditional approval and are unacceptable to  
232 the buyer. Any person, firm or corporation who, prior to such final  
233 approval, transfers title to any lot subdivided pursuant to a conditional  
234 approval shall be fined not more than one thousand dollars for each lot  
235 transferred. Nothing in this subsection shall be construed to authorize  
236 the marketing of any lot prior to the granting of conditional approval  
237 or renewal of such conditional approval.

238 (b) The regulations adopted under subsection (a) of this section shall  
239 also encourage energy-efficient patterns of development and land use,  
240 the use of solar and other renewable forms of energy, and energy  
241 conservation. The regulations shall require any person submitting a  
242 plan for a subdivision to the commission under subsection (a) of this  
243 section to demonstrate to the commission that such person has  
244 considered, in developing the plan, using passive solar energy  
245 techniques which would not significantly increase the cost of the  
246 housing to the buyer, after tax credits, subsidies and exemptions. As  
247 used in this subsection and section 8-2, "passive solar energy  
248 techniques" means site design techniques which maximize solar heat  
249 gain, minimize heat loss and provide thermal storage within a building  
250 during the heating season and minimize heat gain and provide for  
251 natural ventilation during the cooling season. The site design  
252 techniques shall include, but not be limited to: (1) House orientation;

253 (2) street and lot layout; (3) vegetation; (4) natural and man-made  
254 topographical features; and (5) protection of solar access within the  
255 development.

256 (c) The regulations adopted under subsection (a) of this section,  
257 may, to the extent consistent with soil types, terrain, infrastructure  
258 capacity and the plan of development for the community, provide for  
259 cluster development, and may provide for incentives for cluster  
260 development such as density bonuses, or may require cluster  
261 development.

262 (d) (1) To satisfy any [bond or surety] financial guarantee  
263 requirement in this section, the commission [shall] may accept surety  
264 bonds [,] and shall accept cash bonds, passbook or statement savings  
265 accounts and other [surety] financial guarantees other than surety  
266 bonds including, but not limited to, letters of credit, provided such  
267 [bond or surety] financial guarantee is in a form acceptable to the  
268 commission and the financial institution or other entity issuing any  
269 letter of credit is acceptable to the commission. Such [bond or surety]  
270 financial guarantee may, at the discretion of the person posting such  
271 [bond or surety] financial guarantee, be posted at any time before all  
272 approved public improvements and utilities are [constructed and  
273 installed] completed, except that the commission may require a [bond  
274 or surety] financial guarantee for erosion [control] and sediment  
275 controls prior to the commencement of any [such construction or  
276 installation] improvements. No lot shall be transferred to a buyer  
277 before any required [bond or surety] financial guarantee is posted or  
278 before the approved public improvements and utilities are completed  
279 to the reasonable satisfaction of the commission or its agent. For any  
280 subdivision that is approved for development in phases, the [surety]  
281 financial guarantee provisions of this section shall apply as if each  
282 phase was approved as a separate subdivision. Notwithstanding the  
283 provisions of any special act, municipal charter or ordinance, no  
284 commission shall require a [bond or surety to securitize] financial  
285 guarantee or payment to finance the maintenance of roads, streets or

286 other improvements associated with such subdivision for  
287 [maintenance occurring] more than one year after the date on which  
288 such improvements have been completed to the reasonable satisfaction  
289 of the commission or its agent or accepted by the municipality.

290 (2) If the person posting a [bond or surety] financial guarantee  
291 under this section requests a release of all or a portion of such [bond or  
292 surety] financial guarantee, the commission or its agent shall, not later  
293 than sixty-five days after receiving such request, (A) release or  
294 authorize the release of any such [bond or surety] financial guarantee  
295 or portion thereof, provided the commission or its agent is reasonably  
296 satisfied that the [modifications] improvements for which such [bond  
297 or surety] financial guarantee or portion thereof was posted have been  
298 completed, or (B) provide the person posting such [bond or surety]  
299 financial guarantee with a written explanation as to the additional  
300 [modifications] improvements that must be completed before such  
301 [bond or surety] financial guarantee or portion thereof may be  
302 released.

303 Sec. 3. Section 8-27 of the general statutes is repealed and the  
304 following is substituted in lieu thereof (*Effective October 1, 2012*):

305 Any municipality having a planning commission may, by  
306 ordinance, prohibit or regulate the issuance of building permits for the  
307 erection of buildings or structures on lots abutting unaccepted  
308 highways or streets. No such ordinance shall prevent the issuance of a  
309 building permit for the construction of (1) farm or accessory buildings  
310 which are not in violation of any lawful zoning or building regulations  
311 of the municipality, or (2) any building or structure on a site plan  
312 approved pursuant to subsection (g) of section 8-3, as amended by this  
313 act, or in a subdivision approved pursuant to section 8-25, as amended  
314 by this act. Any building erected in violation of any such ordinance  
315 shall be deemed an unlawful structure, and the municipality through  
316 the appropriate officer may bring action to enjoin the erection of such  
317 structure or cause it to be vacated or removed. Any person, firm or

318 corporation erecting a building or structure in violation of any such  
319 ordinance may be fined not more than two hundred dollars for each  
320 building or structure so erected in addition to the relief herein  
321 otherwise granted to the municipality.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	8-3(g)
Sec. 2	<i>October 1, 2012</i>	8-25
Sec. 3	<i>October 1, 2012</i>	8-27

***Statement of Purpose:***

To amend requirements concerning the posting of bonds and other surety for the completion of public improvements on approved site plans and subdivisions, and to prohibit municipalities from regulating the issuance of building permits for structures built pursuant to an approved site plan or subdivision and located on a lot abutting an unaccepted highway or street.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*